

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CODY LAVIN,

Plaintiff,

v.

SCARLETT, et al.,

Defendants.

Case No. 3:17-cv-00731-MMD-CLB

ORDER

The Court closed this 42 U.S.C. § 1983 case in 2019 but reopened this action and reinstated Plaintiff's application to proceed *in forma pauperis* in October 2024. (ECF Nos. 1, 13, 18). Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court entered a screening order on November 7, 2018. (ECF No. 6). The order reopening this case imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. (ECF Nos. 18, 20). The Office of the Attorney General has filed a status report indicating that settlement has not been reached and informing the Court of its intent to proceed with this action. (ECF No. 23).

For the foregoing reasons, **IT IS ORDERED** that:

1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is **GRANTED**. Plaintiff shall not be required to pay an initial installment of the filing fee. In the event that this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).

2. The movant herein is permitted to maintain this action to conclusion without the necessity of prepayment of any additional fees or costs or the giving of security therefor.

1 3. Pursuant to 28 U.S.C. § 1915, the Utah Department of Corrections will
2 forward payments from the account of **Cody Lavin, # 246232** to the Clerk of the United
3 States District Court, District of Nevada, 20% of the preceding month's deposits (in
4 months that the account exceeds \$10.00) until the full \$350 filing fee has been paid for
5 this action. The Clerk of the Court will send a copy of this order to the Finance Division
6 of the Clerk's Office. The Clerk will send a copy of this order to the attention of **Chief of**
7 **Inmate Services for the Utah Department of Corrections**, Central Utah Correctional
8 Facility, P.O. Box 550, Gunnison, UT 84634.

9 4. The Clerk of the Court shall electronically **SERVE** a copy of this order and
10 a copy of Plaintiff's complaint (ECF No. 7) on the Office of the Attorney General of the
11 State of Nevada by adding the Attorney General of the State of Nevada to the docket
12 sheet. This does not indicate acceptance of service.

13 5. Service must be perfected within ninety (90) days from the date of this order
14 pursuant to Fed. R. Civ. P. 4(m).

15 6. Subject to the findings of the screening order and reopening order (ECF
16 Nos. 6, 18), within twenty-one (21) days of the date of entry of this order, the Attorney
17 General's Office shall file a notice advising the Court and Plaintiff of: (a) the names of the
18 defendants for whom it accepts service; (b) the names of the defendants for whom it does
19 not accept service, and (c) the names of the defendants for whom it is filing the last-
20 known-address information under seal. As to any of the named defendants for whom the
21 Attorney General's Office cannot accept service, the Office shall file, under seal, but shall
22 not serve the inmate Plaintiff the last known address(es) of those defendant(s) for whom
23 it has such information. If the last known address of the defendant(s) is a post office box,
24 the Attorney General's Office shall attempt to obtain and provide the last known physical
25 address(es).

26 7. If service cannot be accepted for any of the named defendant(s), Plaintiff
27 shall file a motion identifying the unserved defendant(s), requesting issuance of a
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1 summons, and specifying a full name and address for the defendant(s). For the
2 defendant(s) as to which the Attorney General has not provided last-known-address
3 information, Plaintiff shall provide the full name and address for the defendant(s).


4 8. If the Attorney General accepts service of process for any named
5 defendant(s), such defendant(s) shall file and serve an answer or other response to the
6 complaint (ECF No. 7) within sixty (60) days from the date of this order.

7 9. Plaintiff shall serve upon defendant(s) or, if an appearance has been
8 entered by counsel, upon their attorney(s), a copy of every pleading, motion or other
9 document submitted for consideration by the Court. If Plaintiff electronically files a
10 document with the Court's electronic-filing system, no certificate of service is required.
11 Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc. R. IC 4-1(b); Nev. Loc. R. 5-1. However, if Plaintiff
12 mails the document to the Court, Plaintiff shall include with the original document
13 submitted for filing a certificate stating the date that a true and correct copy of the
14 document was mailed to the defendants or counsel for the defendants. If counsel has
15 entered a notice of appearance, Plaintiff shall direct service to the individual attorney
16 named in the notice of appearance, at the physical or electronic address stated therein.
17 The Court may disregard any document received by a district judge or magistrate judge
18 which has not been filed with the Clerk, and any document received by a district judge,
19 magistrate judge, or the Clerk which fails to include a certificate showing proper service
20 when required.

21 10. This case is no longer stayed.

22 **IT IS SO ORDERED.**

23 **DATED:** February 5, 2025

24 
25 **UNITED STATES MAGISTRATE JUDGE**
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